

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**CHRISTINE E DIETZ**

Claimant

**ELEVATE PROPERTY MANAGEMENT LLC**

Employer

**APPEAL NO. 13A-UI-01106-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/22/12**

**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge for Misconduct  
871 IAC 24.32(7) – Excessive Unexcused Absenteeism

**STATEMENT OF THE CASE:**

The claimant appealed a department representative's decision dated January 25, 2013, reference 01, that held she was discharged for excessive unexcused absenteeism on January 4, 2013, and benefits are denied. A hearing was held on February 28, 2013. The claimant participated. Tracie Iverson, HR manager, participated for the employer.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses, and having considered the evidence in the record, finds that: The claimant worked as a full-time property manager from May 30, 2012 to January 4, 2013. The claimant received the employer attendance policy in an employee handbook.

Claimant reported to her supervisor an emergency hospital admission on December 6. She later told the employer she would be in the hospital a day or two. When she returned to work, she provided medical information to her supervisor.

Claimant let her supervisor know about a doctor appointment on December 28. The doctor changed the appointment to an earlier time that was before the end of the work day. Claimant told a co-worker she was leaving about 2:20 p.m.

On January 4 claimant was discharged by her supervisor for leaving work early without permission on December 28 in light of her December 6/7 absences.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(7) provides:

(7) Excessive unexcused absenteeism. Excessive unexcused absenteeism is an intentional disregard of the duty owed by the claimant to the employer and shall be considered misconduct except for illness or other reasonable grounds for which the employee was absent and that were properly reported to the employer.

The administrative law judge concludes that the employer failed to establish misconduct in the discharge of the claimant on January 4, 2013, for excessive "unexcused" absenteeism.

The employer did not offer claimant's supervisor as a witness or a witness statement to refute claimant's testimony. The employer admits there were mitigating circumstances regarding claimant's December 6/7 absences so no written discipline was issued. Claimant had a good excuse for leaving work early on December 28 and did let a co-worker know it was for a doctor appointment. Absent a written warning for the reporting absence issue after December 7, claimant had no reason to believe a further incident could mean termination.

When reviewing the record whole, excessive unexcused absenteeism is not established. An emergency hospital admission does mitigate the failure to timely report the absence period as does the move-up of the doctor appointment time.

**DECISION:**

The decision of the representative dated January 25, 2013, reference 01, is reversed. The claimant was not discharged for misconduct in connection with employment on January 4, 2013. Benefits are allowed, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/pjs